

**STILLWATER COUNTY
COMMISSIONER MINUTES**

<p>Notice: These minutes reflect the proceedings of the Board of County Commissioners. The official minutes are on file with the Clerk and Recorder MCA 7-4-2611(2)(b).</p>
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**REGULAR MEETING
May 18, 2021**

PRESENT Commissioner Mark Crago, Chair, Commissioner Tyrel Hamilton, Commissioner Steve Riveland, members; Madisyn Hudecek, Admin Assistant.

Others Present: Christine Baker, Planning; Bill Pronovost, DES; Maureen Wiltshire, DES; Randy Smith, SCSO; Jerry Friend, Treasurer; Kevin Ray, Road & Bridge; Stephanie Ray, Planning; Forrest Mandeville, Planning; Emily Schabacker, Stillwater County News; Jeremy Eaton, Engineering West; Kisha Miller, City of Columbus; Rich Cowger, CFD/Airport Board; Liz Cox, Alternatives; Citizens: Shirlee Keffer, Vance Drain, Alan Drain, Chris Cookingham.

PLEDGE Commissioner Crago opened the meeting with the Pledge of Allegiance.

MINUTES May 4, 2021

Commissioner Hamilton **MOVED** to approve the minutes as presented. Commissioner Riveland **SECONDED**. No discussion. Motion passed unanimously.

CLAIMS 107147 through 107261 in the amount of \$232,200.09.

Commissioner Riveland **MOVED** to approve claims 107147 through 107261 in the amount of \$232,200.09. Commissioner Hamilton **SECONDED**. No discussion. Motion passed unanimously.

ANNOUNCEMENTS Commissioner Crago announced that the June 1 agenda meeting will be a traveling agenda meeting in Fishtail at 6:30 p.m. at Hanna Hall.

REGULAR BUSINESS **Columbus Fire & Rescue**

A) Request release of funds for round five of CARES Act allocated funds in the amount of \$177,297.00. Commissioner Hamilton **MOVED** to approve the request for release of funds for round five of the CARES Act allocated funds in the amount of \$177,297.00. Commissioner Riveland **SECONDED**. Discussion – Commissioner Crago noted that this was for preapproved new equipment. Rich Cowger stated that towards the end of the CARES Act the State authorized the buying of EMS equipment. This was all applied for and preapproved with the State. Motion passed unanimously.

Commission

A) Resolution 2021-07 canceling uncalled warrants and Treasurers checks drawn on Yellowstone Bank with a date of issuance between July 1, 2018 and June 30 2020. Commissioner Riveland **MOVED** to approve the Resolution 2021-07 canceling uncalled warrants and Treasurer's check drawn on Yellowstone Bank with a date of issuance between July 1, 2018 and June 30, 2020. Commissioner Hamilton **SECONDED**. Discussion – Commissioner Crago stated that this is the final paperwork for the order to cancel. Jerry Friend added that this is to write off checks that have not cleared the bank. The county tries to do this annually so there are not checks in the system that are old and have never cleared the bank. The list of these checks is on file in the Clerk & Recorder's office. The checks can

be reissued if someone presents one of these checks that is on the list. Motion passed unanimously.

B) Annual Allocation of Metal Mines License Tax Allocation. Commissioner Hamilton **MOVED** to approve the annual allocation of metal mines license tax allocation. Commissioner Riveland **SECONDED**. Discussion – Jerry Friend asked what the total dollar amount is for the allocation. Commissioner Crago stated that Stillwater County has an amount of \$0.00 for this allocation. Sweet Grass County is the benefactor of this allocation for the East Boulder side, but Stillwater County still needs to sign the allocation. Motion passed unanimously.

Road & Bridge

A) Bid Opening for the Park City Sidewalk Improvement Project. Commissioner Crago stated that no bids were received for this project. The County is going to reexamine their options and decide how to proceed. No action is taken on this item at this time

Finance

A) Compensation Board Recommendation. Commissioner Riveland **MOVED** to approve the Compensation Board recommendation. Commissioner Hamilton **SECONDED**. Discussion – Commissioner Riveland stated that the recommendation was for a three percent increase with a unanimous vote by the compensation board. Commissioner Crago explained that this will set elected official's salaries and from this the Sheriff Deputies, Undersheriff, the Clerk of Court's deputy, the Treasurer's deputy and the Clerk & Recorder's deputy wages are based on a percentage of the elected official's salaries. Motion passed unanimously.

Absarokee Sewer

A) Loan Disbursement Report in the amount of \$341,347.00. Commissioner Hamilton **MOVED** to approve the loan disbursement report in the amount of \$341,347.00. Commissioner Riveland **SECONDED**. Discussion – Commissioner Crago stated the sewer project is moving forward. The first pond has been drained and the sludge was removed so it could be relined. The favorable spring weather has helped make up for lost time. Motion passed unanimously.

Planning Department

A) Buildings for lease or rent application – Stillwater Storage. Forrest Mandeville presented and read the attached recommendation from the County Planning Board on a building for lease or rent application from the Stillwater Storage Facility. The Planning board recommended conditional approval and the changes are indicated with a strikethrough and underlining. Commissioner Riveland stated that he does have concerns for adjoining properties. Commissioner Riveland **MOVED** to approve the buildings for lease or rent application Stillwater Storage with all conditions required in the application met. Commissioner Hamilton **SECONDED**. Discussion – Commissioner Hamilton asked Forrest if it is required of the applicant to demonstrate that the roof drainage is adequate to adjoining properties, who follows through with this, who is reviewing the process, is there a plan that need to be presented of the roof structure or the drainage system prior to construction and will this be brought before the commission again or will it be conditionally approved with no authority to review the conditions. Forrest responded that most likely the Commissioners will not have this presented again. There will not be a final approval process set up. The applicant will have to give the planning office their plans of how they will meet the requirements. If the requirements are not met and they end up in violation at some point in the future, there is no code enforcement officer so it will likely be handled through a complaint from a neighbor. If a drainage issue occurs that is not being adequately addressed the way the developer was required to, the planning office would receive a complaint, conduct an investigation and likely contact the applicant to have fix the issues within a certain timeframe. If the issues are not fixed, then the matter would be referred to the county attorney for prosecution. The county could pull the approval if they are in violation. There are several options the county could exercise. If the DEQ requirements are not being satisfied, there is a process through DEQ for a complaint to be submitted to the DEQ enforcement division. DEQ has a more robustly

defined process than the county. The county together with DEQ have more potential strength together to ensure the conditions are adhered to. Commissioner Hamilton asked if the county's authority is based off of State statute. Forrest replied that Commissioner Hamilton was correct. Commissioner Riveland stated that his main concern is for the Miller property directly to the east and the setback is only two feet. Prior to construction is there a design for drain water that needs to be submitted before construction can begin. Forrest replied that DEQ will review this and can make requirements for the applicant. Jeremy Eaton added that they are going to put in a rain gutter system and increase the setbacks to four feet. They roof will drain through the gutters and into a retention pond. This information will be submitted to the planning department. Commissioner Crago asked if there will be six-inch gutters. Jeremy replied that the gutter size will be determined by the roof slope, what the rainfall intensity is and how much roof area will be drained, this is still in the planning process. Commissioner Crago asked what is the erosion plan for the southeastern portion of the property. Jeremy said that the water will be directed away from that area to a retention pond. Commissioner Hamilton asked if there has been a discussion about the option of a retaining wall for a concrete barrier to aid in holding the water off. Jeremy said that they can look at placing a barrier there. Commissioner Crago asked Forrest if the planning office is comfortable that this is included in the drainage or does the Commission need to add a condition to address the erosion and excessive fill along the property lines. Forrest replied that this would be up to the Commission. The planning boards intent was to make condition number eight broad enough to handle these issues. Erosion will be caused by water and your drainage issue will cause the erosion and they are tied into this somewhat. If the Commission does not think the condition is strong enough, something can be added but keep in mind that conditions have to be tied to the findings that have to be tied to the criteria. If a condition is added it will have to be addressed in the findings and which criteria it will fit into. This could be done under impacts on the physical environment and impacts on human population but a new finding would have to be made specifically to erosion especially if the Commission would want to require something specific such as moving the fill or building a retention wall. An unnamed person stated that a retaining wall in the southeast corner would make sense because you could compact the fill to flow towards the west towards the stormwater drain. If there was a four-foot offset it might hit the fill and move naturally along with the gutters and be a good solution. Alan Drain added that if the conditions are right and the gutters get full of ice, the flow goes over the gutters and onto the ground. There should be a retaining wall in place to mitigate these issues. This is the only solution that he can see is to add a retaining wall the length of the property. Jeremy Eaton stated that there are ways to make ice melt with roof melting systems so there are definitely other options other than tying this into one specific option. Commissioner Hamilton asked Forrest if adding "or other appropriate means" in condition eight would cover what has been discussed. Forrest replied that to address Alan and Vance's points that the way the DEQ approval would work is that if the gutter system were to jam up and dump water onto the packed fill which would wash it out towards the Drain and Miller properties, they would not be meeting their DEQ approval at that point and that would set the applicant up for massive fines plus a violation of the counties approval. There may be more than one option and one would hope that the developer would build the project so that it does not violate their approvals as soon as there is a bad ice storm. Commissioner Hamilton asked if the State has been contacted for their opinion because of the amount of fill that could erode without a retaining wall. Forrest replied that DEQ has not approved this application yet. There has been a draft sent to DEQ but they are waiting for finalization of this process before they can issue a final approval and they will see these comments. The fill will have to be addressed in DEQ approval. Stephanie Ray added that another option that would be worth considering is the swale option if you are looking at a four foot setback knowing that there is a tremendous amount of fill there, if the fill is reduced or cutback a little bit so that it is pulling off the adjacent property owner and not impeding their property, swales are a great capture for storm weather and tend to help mitigate that issue with when drains tend to freeze up even if there is tracer tape to keep them heated, a swale is a good opportunity. Jeremy Eaton replied that this has been considered but this but did not think this is something that they would move forward with. Erosion is going to happen when water runs. If they are proposing all the water to run off to the west, the water that falls on that four-foot section is going to be minimal unless there is an extreme event and you can't plan for all extreme events. Alan Drain stated that even if there is a big cloud burst with no retaining wall in place, all the fill would slough

off no matter what and that is why he feels a retaining wall needs to be put in. Jeremy Eaton replied that he did not know if they would go to a retaining wall. They could move the fill. The fill was placed because the ground was moving with the RV's and campers there and it was rutting. You can always take material out and move that fill down. Perhaps reducing the fill amount could be an option and there is more than option to this problem. An unnamed person asked if the fill depth was part of the grading plan. Jeremy Eaton replied that it is not part of the plan. Commission Riveland asked what the fill depth was prior to this. Jeremy Eaton replied that he did not have any fill depth on his plan. Commissioner Crago asked if the fill was currently placed there as a stockpile for plans. Jeremy Eaton replied that it can be dealt with as plans move forward. Commissioner Crago stated that he would like to see an amendment to the motion that would address the erosion and current fill on site and to make sure there is protection for the neighbors as well. Commissioner Riveland **MOVED** to amend the motion to include condition number nine which requires pulling the gravel so it is at least on the property owners property and to add a retention wall to the east and south corner to protect adjacent property owners. Commissioner Hamilton **SECONDED**. Discussion – Commissioner Crago stated that with the motion the amendment would force a retention wall and not give them the ability to make adjustments to the gravel to add a gradual slope over the four feet to the building. Commissioner Crago agreed with Jeremy that there are things that can be done and a retaining wall does make sense but there are also other solutions besides the wall. If this amendment passes along with the rest of it, the condition is to put a retaining wall in. Commissioner Riveland stated that while he understands that the landowner would like to build his facility, he would like to protect the adjacent property owners. If the fill does not get cut back in an appropriate manner, a cloud burst could run the fill onto other people's property and into Kisha's fence. Commissioner Hamilton agreed with Commissioner Riveland that even with various means to mitigate plugged gutters and other problems there is still a concern of water shedding to the east and there is no easy path to get it to the west side and it could dam up even if it gets the water off the roof there is nothing to say that natural causes couldn't cause dam on the back side of the building. The retention wall could add protection to the adjacent landowners but to the property owner that has a building sitting on a foundation. Commissioner Riveland stated that water moves things and on his property the people behind him did not adequately grade and during a downpour there is dirt and gravel piled up against the backside of this shop which is not nearly as high as the gravel on the proposed property. Forrest stated that the conditions have to tie into the findings and he has added under "A" which is the what you are minimizing potentially significant impacts on the physical environment and human population affected by the proposal, and that he added that the Commission noted erosion concerns to the fill on the site. The fill was not part of the DEQ submittal. The fill should be moved to ensure all of it is on the site and the retaining wall should be constructed to protect neighboring properties which forms a ninth condition that the fill shall be moved off of adjacent properties and a retaining wall shall be constructed on the east side of the property to lessen erosion concerns. Commissioner Crago asked for any further discussion for the amendment to the motion. Jeremy Eaton stated that being tied into one scenario that there are more options such as the swale, lowering the fill and take out material to place the structural fill and still grade it back towards the building. Topography generally runs from north to south so it is fairly consistent through there and we just have to deal with going to east to west towards the retention pond. If they have to put in a wall, you are stating that the fill is going to stay at that level. If the fill is brought down, do you need a retention wall. Commissioner Hamilton stated that he would **MOVE** to amend the amendment on condition number nine to state unless and adequate alternative can be met through condition number eight of other appropriate means. If it can be demonstrated through number eight that through other appropriate means that he has met the runoff potential they will give him that because it will tie it to just the retention wall when there could be other options through number eight. Giving the landowner the option to demonstrate that he has met proper drainage. Forrest stated that he has a concern tying one condition to another and that he would recommend to add a retention wall as an option in condition eight instead of adding another condition that ties back to eight. Commissioner Riveland asked if the Commission can amend or require a plan to alleviate the risk to adjoining property owners and revisit this for approval once it is seen on the application that a plan has been put in place to mitigate erosion and runoff on adjacent properties. Forrest responded that if they were to table this until a date could be set and then ask the developer to bring the revised drainage

plan. Commissioner Riveland stated that this would need to address the concerns for runoff and erosion on adjacent property owners. An unnamed person added that this would be good if it included the gutters and exactly what they are doing. Commissioner Hamilton added that this would give the developer an opportunity to meet the other appropriate means. Commissioner Riveland stated that this is not meant to tie the developer into unnecessary costs to build the wall but he would like to protect the adjacent property owners. If this could be tabled until a plan can be put into writing on the application and then be readdressed. Forrest added that this would need to be tabled to a date certain. There is only sixty days from the planning board agenda and the county is only about twenty days into the sixty-day timeframe so this could be put off until the June 15 or 22 agenda and still be okay from the timeline perspective. Make sure the applicant can get the plan submitted approximately a week or so prior to the meeting. Commissioner Hamilton requested to **WITHDRAW** his motion. Commissioner Crago stated that the amendment to the amendment is withdrawn and there was no second. The best course of action is to vote the amendment down and vote on the original motion to approve with conditions or to postpone or table but the best course is to vote the original amendment down and start with a new motion to move forward at that point. Commissioner Hamilton stated that he thinks this should be tabled. Commissioner Riveland asked if he could withdraw his amendment on the original motion. Commissioner Hamilton replied that you can table it, they could vote on the amendment and chose to table within motion. You don't want to vote one way or another on the original motion because that would be the ultimate course of action for that. Commissioner Crago called for a vote on the amendment to the original motion. Motion failed unanimously. Commissioner Crago returned to the original motion discussion and asked Jeremy what would be an adequate timeline to draft another plan and allow for the week for review. Jeremy responded that he would like two weeks to draft the plan. Commissioner Crago stated that the Commission could review the plan the week of June 7 and put this back on the agenda June 15. Commissioner Riveland **MOVED** to table the motion until June 15. Commissioner Hamilton **SECONDED**. An unnamed person said thank you for your consideration and that this will be a better project hopefully once the drainage gets figured out. Motion passed unanimously.

Airport Board

A) Fence Bid Approval – The Woltermann Memorial Airport. Commissioner Hamilton **MOVED** to approve the fence bid approval for the Woltermann Memorial Airport. Commissioner Riveland **SECONDED**. Discussion – Commissioner Crago explained that this is for Frontier Fence in the amount of \$2400.00. Kisha Miller explained that this is for wildlife mitigation. An unnamed person further explained that this is for a fence to keep animals out and to also keep animals in. The fence is in the southeast corner to keep wildlife out of the airport and there is a gate they can go to in the corner to get the wildlife out once they get in. Kisha added that the City Council approved to pay half of the portion and this request is for the county to pay the other half. Commissioner Crago stated that the amount to the county would be their half of the \$2400.00 which is \$1200.00. Motion passed unanimously.

B) Request for capital fund creation and the transfer of currently budgeted funds. Commissioner Riveland **MOVED** approve the request for capital fund creation and the transfer of currently budgeted funds. Commissioner Hamilton **SECONDED**. Discussion – Commissioner Crago stated that this is a reminder that this is for unspent funds. Rich Cowger stated that the Airport Board is trying to get ahead of the game as there has never been a process where FAA project money comes in. This is already budgeted money that has not been spent and is being put in a Capital Fund. Commissioner Crago stated that typically the fund matches are anywhere from the five to ten percent on the FAA projects. Rich further stated that this fund will be built so that it is available for projects. Commission Crago noted that this subject was brought before the Commission by Rich Cowger and Kisha Miller during the airport budget meeting. Motion passed unanimously.

C) AIP-3-30-0017-015-2021 Pavement Maintenance Contract. Commissioner Hamilton **MOVED** to approve the AIP-3-30-0017-015-2021 Pavement Maintenance Contract. Commissioner Riveland **SECONDED**. No discussion. Motion passed unanimously.

D) Lease extension for 20 years – Woltermann Memorial Airport Hanger. Commissioner Riveland **MOVED** to approve the Lease extension for 20 years on the Woltermann Memorial Airport Hanger. Commissioner Hamilton **SECONDED**. Discussion – Rich Cowger stated that Mary still has the original lease and the recommendation is to renew it. Motion passed unanimously.

Beta Alternatives

A) Request for 2022 Barrel Tax funding. Commissioner Hamilton **MOVED** to approve the request for 2022 Barrel Tax funding. Commissioner Riveland **SECONDED**. Discussion. – Commissioner Hamilton stated that this is a passthrough from the state to allocate 100% of the Barrel Tax Money to the Beta Alternatives program and the total amount is unavailable at this time. Commissioner Crago stated that last year there were three guaranteed payments that were \$5800.00 and there was a fourth payment of \$16,000.00. This barrel tax money is used to help with alcohol abuse and addiction and alternatives handles the classes for individuals in the county. This is the third year of this program. Commissioner Hamilton added that there is a good success rate. Liz Cox stated that completion of full treatment is generally 100% and every so often there are repeat offenders. This program has been very successful. Commissioner Hamilton noted that between this program and the Sheriff's work program this has become a good alternative to jail time and gives offenders an opportunity to pay their time. Randy Smith asked if some of the barrel tax money is used for mental health. Commissioner Crago replied that up until three years ago the county contracted with the regional mental health center in Billings for mental health services and prime for life classes which are the alcohol related classes. There were some difficulties getting good services for the county and alternatives proposed to expand the services to Stillwater County. This was done on a trial basis for one year. The Commission felt that this was successful and continued the services. Motion passed unanimously.

Regional Mental Health Center

A) 1 year extension of current professional services agreement for Mental Health Services in the amount of \$20,000.00. Commissioner Riveland **MOVED** to approve the 1-year extension of current professional services agreement for Mental Health Services in the amount of \$20,000.00. Commissioner Hamilton **SECONDED**. Discussion – Commissioner Crago stated that the local mental health office has a fun run fund raiser on June 5 to bring awareness to mental health. The local mental health office is in the Stillwater Billings Clinic building across from the assisted living facility. There is a new clinician available and they are starting to see children now as well. Motion passed unanimously.

PUBLIC COMMENTS ON COUNTY BUSINESS – None heard.

With no further comments heard the meeting was adjourned at 10:05 a.m.

APPROVED BY: /s/ Mark Crago, Commissioner Chairman
ATTEST: Heidi L. Stadel, Clerk and Recorder